

In the Drawings:

Replacement drawings (6 sheets) are attached in which the edges of the drawings have been completed to show that the drawings are properly cut from a larger drawing to show detail, as is conventional accepted by the Patent Office. Copies of the drawings (6 sheets) as originally filed are also enclosed.

REMARKS:

The minor correction in the Abstract has been made as requested by the Examiner. Replacement drawings are attached in which the edges of the drawings have been completed to show that the drawings are properly cut from a larger drawing to show detail, as is conventional accepted by the Patent Office.

Claims 18 through 21 have been withdrawn so that the total number of claims have been reduced by 6 claims and Claims 22 through 27 have been added so the total number of claims remains unchanged. Claims 22 and 26 are independent claims so that the total number of independent claims is equal to 3. Thus no additional claims fee is required.

With regard to the objections under 35 U.S.C. 103, it is noted that the Examiner previously verbally indicated that the claims would be allowable and therefore the receipt of a rejection under 35 U.S.C. 103 was unexpected.

It is noted that the main rejection by the Examiner is based upon Botterman which relates to a terrarium which, as stated in paragraph [0003] of the specification of Botterman, are "used to house a wide variety of reptiles, amphibians and arachnids". It is clear therefore that Botterman, as explained in more detail hereinafter, is not relevant to the present invention and does not constitute analogous art.

Claim 1 has been amended to more clearly state that it is a feature of the flooring that it is "shaped and arranged shaped and arranged within the cage such that the sow can lie on the flooring while confined on the flooring by the cage". This feature is therefore now a specific feature of the flooring. As explained in more detail hereinafter, therefore, it is necessary therefore for the Examiner, in order to substantiate a prima facie case of obviousness under 35 U.S.C. 103, that the Examiner must show prior art in which the flooring is "shaped and arranged within the cage such that the sow can lie on the flooring". In Botterman, there is no such disclosure.

Claim 22 (now added) includes the above feature together with the further feature that the flooring includes a sow section and at least one side portion for the piglets and that the cage is arranged to confine the sow to the area over the sow section. Thus Claim 22 is more clearly directed to the specific construction of a farrowing crate in which the sow is located at the center and there is provided at least one portion to the side where the sow is prevented from accessing so that the sow does not lie on the piglets. This feature is clearly not disclosed in either Botterman or Hartke.

Claim 26 includes the above first feature concerning the flooring together with the further feature that the trough is attached to the floor and the feed supply system is attached to the front gate. This arrangement is clearly not shown in Botterman. In Hartke the whole structure of the feeder is attached to the front gate for movement with the front gate. This feature is therefore not disclosed in any of the prior art documents.

Turning therefore in more detail to the question of analogous art, the present invention relates to a farrowing crate for containing a sow and piglets. This has now been made more clear in the three independent claims presented.

Farrowing crates are previously known and the Examiner will be aware of many examples of prior patents showing farrowing crates. Applicants do not suggest that farrowing crates are new and to the contrary there is a field of art which relates to farrowing crates and their construction.

It is submitted that the prior art of Botterman is non-analogous art.

MPEP at 2141.01(a) states :

"in order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavour or if not then be reasonably pertinent to the particular problem with which the invention was concerned."

Botterman relates to a terrarium for "reptiles, amphibians and arachnids". It relates to the supply of water to such creatures in a manner in which they can not only drink the water but also can use the water for "soaking and hydrating". The creatures concerned are relatively small in the cage and are intended to move about freely. The area 130 with which the Examiner is concerned is described as a "beach portion" that is the creatures are free to walk over that and to enter the water for soaking and hydrating. Botterman is not concerned with feeding the creatures. Botterman is solely concerned with the presence of water in the front area primarily in a manner in which the animals can soak.

The question concerning analogous therefore relates to firstly whether the Botterman reference is in the same "*field of applicant's endeavour*".

Farrowing crates contain a very large sow where the sow substantially fills the crate in length and in width. Clearly Botterman is not in this same field of endeavour. It has entirely different characteristics and the animals inside relate to the cage in an entirely different way.

Having failed the first test, therefore, it is necessary that the Botterman reference be "*reasonable pertinent to the particular problem with which the inventor was concerned*".

The inventor was concerned with the question of how to suitably provide feed to a sow when closely confined within a farrowing crate. As set forth, the farrowing crate has the conditions that the sow is very large within the cage and is restricted from movement front to back and side to side and certainly cannot move about the cage.

The question is therefore whether Botterman is reasonably pertinent to this problem. Botterman clearly is not pertinent to this problem since it relates to entirely different animals on an entirely different scale and since it does not provide feed to the animal but instead provides a soaking area.

In simple common sense terms, the inventor would simply not look to the field of terrariums nor to the field of providing beaches and soaking areas within a terrarium in order to solve the problem of feeding a large confined sow within a cage.

It is only with hindsight, after it is noted that the resultant structure is somewhat similar in appearance, that the prior art document of Botterman achieves any relevance. It is well established that hindsight cannot be used as a motivation to look for prior art documents.

In the same paragraph of MPEP at page 123 it is stated:

"In a simple mechanical invention a broad spectrum of prior art must be explored and is reasonable to permit inquiry into other areas where one of ordinary skill in the art would be aware that similar problems exist".

As set forth above, it is submitted that the prior art of Botterman fails this test since a person skilled in the art would not look to the prior art of Botterman since he would not be aware that similar problems exist. To the contrary he would be aware that similar problems do not exist in terrariums since the problem is a very large sow in the very small crate and the feeding of that sow. Terrariums would never have such a similar problem.

Even if one were hypothetically to ignore the question of whether Botterman is prior analogous art, a combination of Botterman and Hartke does not provide a construction as set forth in Claim 1. Indeed Botterman and Hartke are inconsistent in regard to the elements to which the Examiner has referred.

Hartke provides a feeder which is wholly mounted on the front gate on the exterior to the gate. Botterman provides a water area (for soaking) on the inside area at the floor.

If one is therefore looking at the problem with which the present inventor is concerned that is the large sow in the small crate, Hartke provides a

solution to that problem in which the feeder and its trough are located on the exterior of the cage beyond the front wall. This arrangement could be a solution to the problem of the present inventor. However it is not the solution adopted nor the solution defined in the claim. The claims state that the trough is located on the flooring. Hartke locates the trough to the exterior of the cage.

If one therefore attempts to combine even simplistically the disclosure of Hartke and Botterman, there is no simple combination relating to the area at the front of the cage of Botterman which receives water and the feed area of Hartke. A combination of these references would be that an additional feeding trough would be located on the exterior of the front wall with the trough being taken from the construction of Hartke and the cage construction be taken from Botterman. Such an arrangement is not that claimed in the present claims.

Yet further an analysis of obviousness must take into account and provide a motivation for the combination of Botterman and Hartke. Botterman relates to a bathing or soaking area for providing water for reptiles and arachnids. There is simply no motivation to take any construction relating to feeding devices for pigs and add this into the construction of Botterman. The area of Botterman cited by the Examiner relates to water and to soaking water for the creatures. There is simply no motivation to provide a feed supply into this area since it will interfere with the presence of the water and the ability of the creatures to soak.

Claim 1 further includes the feature, mentioned hereinbefore, that the flooring is "shaped and arranged within the cage such that the sow can lie on the flooring while confined on the flooring by the cage". Thus it is well known in farrowing crates that the sow is confined by the cage along the flooring. However neither Botterman nor Hartke in any way disclose this feature. Hartke provides an arrangement for receiving piglets which can therefore run freely within the cage. Botterman discloses an arrangement for small creatures which can also move freely within the cage. There is simply no motivation in either Botterman nor Hartke to provide an arrangement of this type.

It is submitted therefore that Claim 1 is clearly distinguished from the prior art taken singly or in combination and that Claim 1 is not properly rejected as obvious under 35 U.S.C. 103 in view of the above arguments.

Turning now to Claim 22, this includes the further feature that the sow is confined to the floor section for the sow and that there is at least one side portion for receiving the piglets to which the sow cannot enter. There is no such disclosure in Botterman or Hartke.

Yet further Claim 22 includes the feature that the trough includes side walls at the sides of the sow section. There is clearly no such disclosure in Botterman. In Hartke the width of the trough is less than the width of the front wall but there is simply no disclosure that the sow should be prevented from entering the side sections and the whole of the cage is free for the animals to move about. The side walls of the trough of Hartke are therefore not located at the sides of any sow section of the flooring since there is no such sow section.

It is submitted therefore that Claim 22 is properly distinguished from the prior art and should therefore be allowed.

Claim 26 includes the further feature that the trough is attached to the floor while the feed supply system is attached to the front gate. This arrangement is simply not disclosed in either Botterman nor Hartke.

There is no proper combination of Hartke and Botterman concerning a feeder since there is no feeder in Botterman. It is simply not proper therefore to take only the hopper from Hartke and add that into Botterman since this is a hindsight combination and not properly based upon an analysis of these prior art documents without hindsight.

It is submitted therefore that Claim 26 is also distinguished from the prior art and should therefore be allowed.

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In view of the foregoing, further and favourable reconsideration of this application is respectfully requested.

Respectfully submitted

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Enc.(12)

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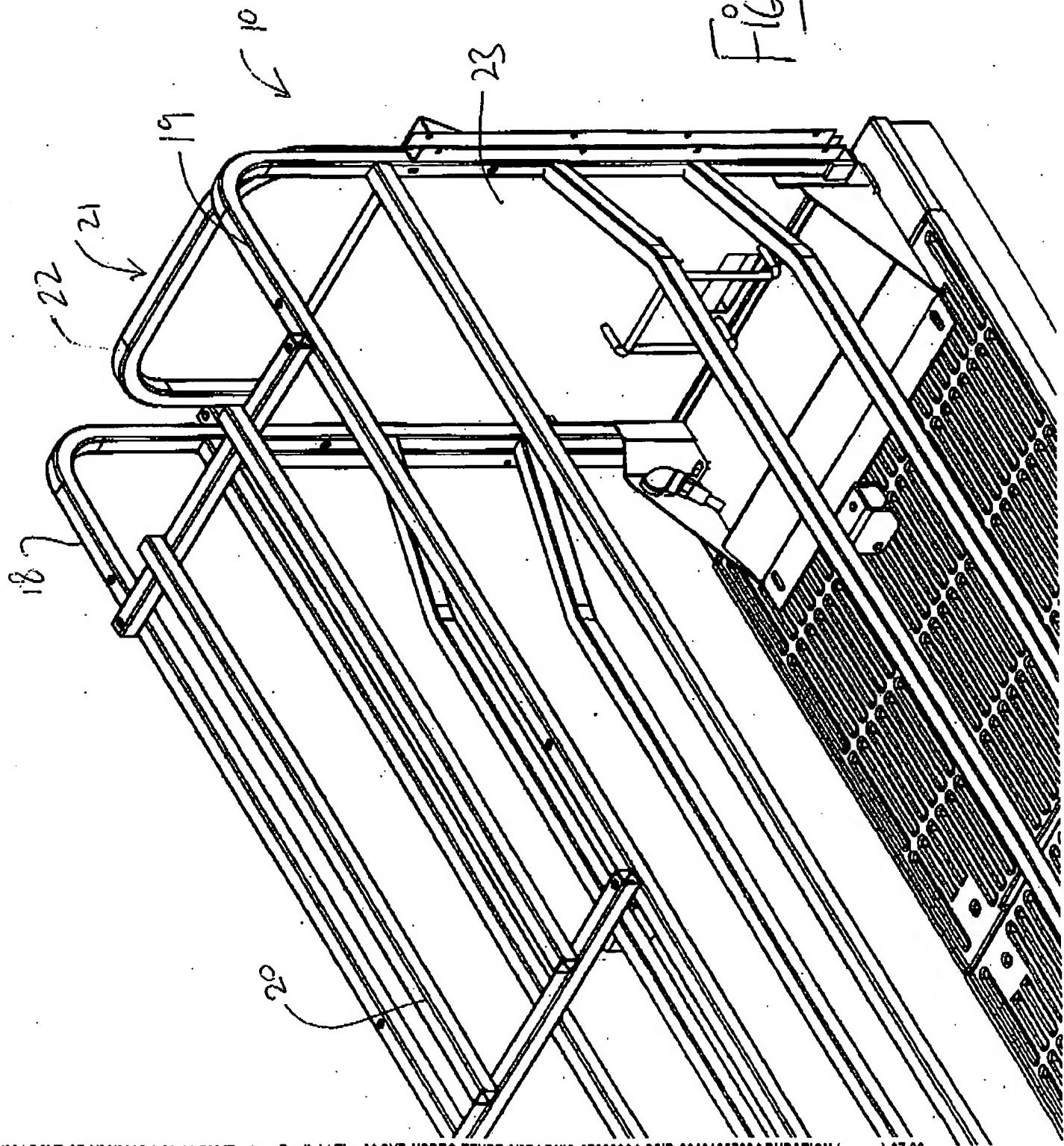
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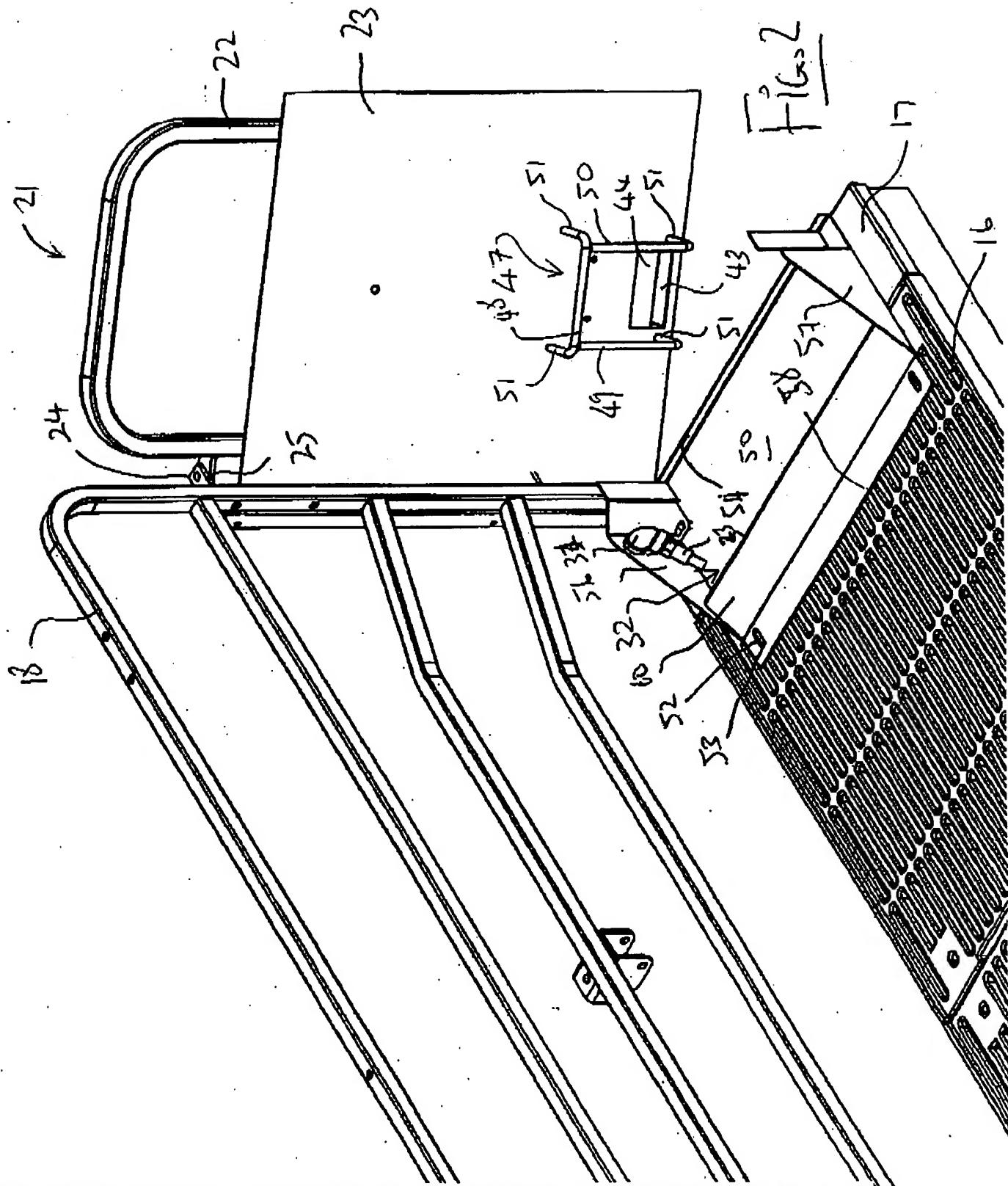
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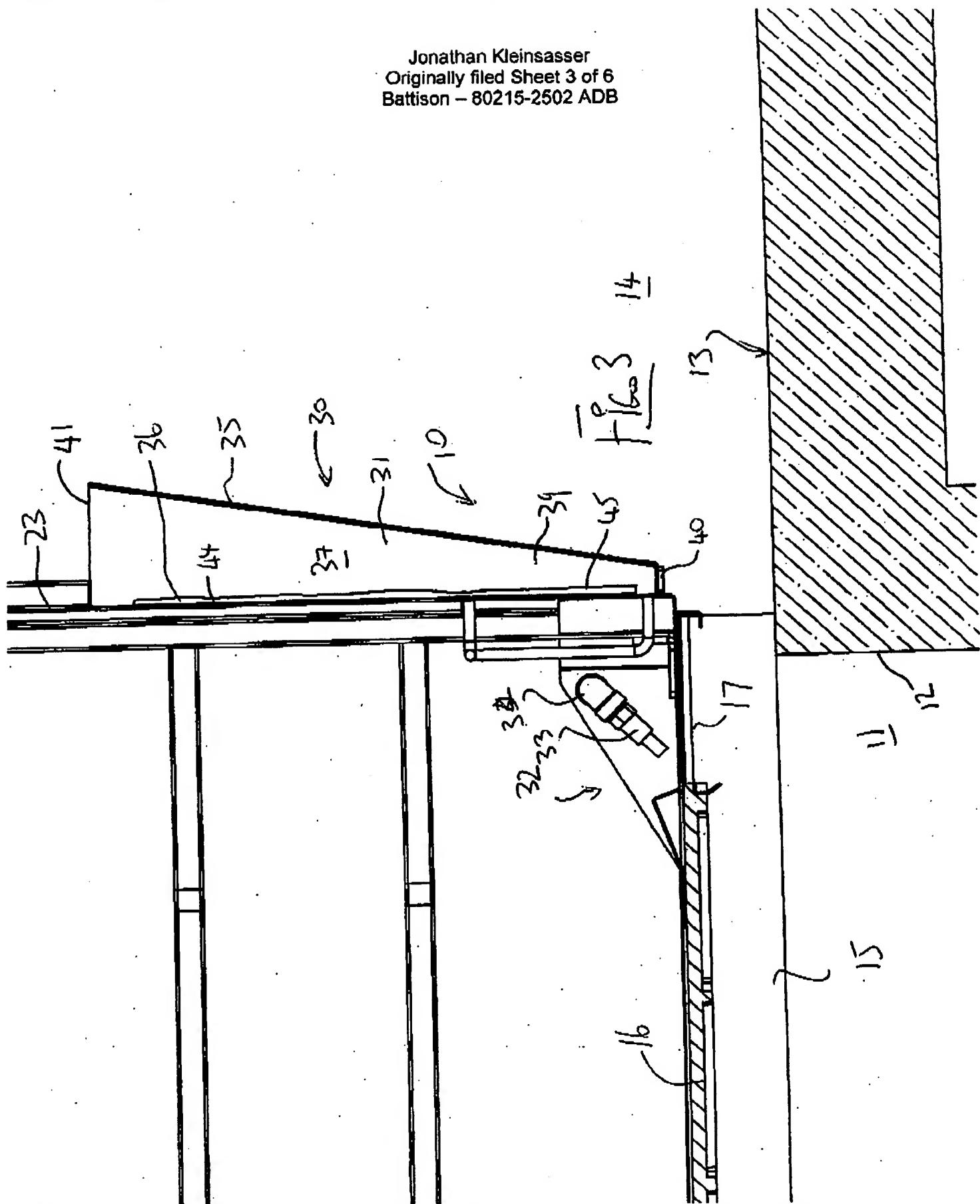
Figs 1



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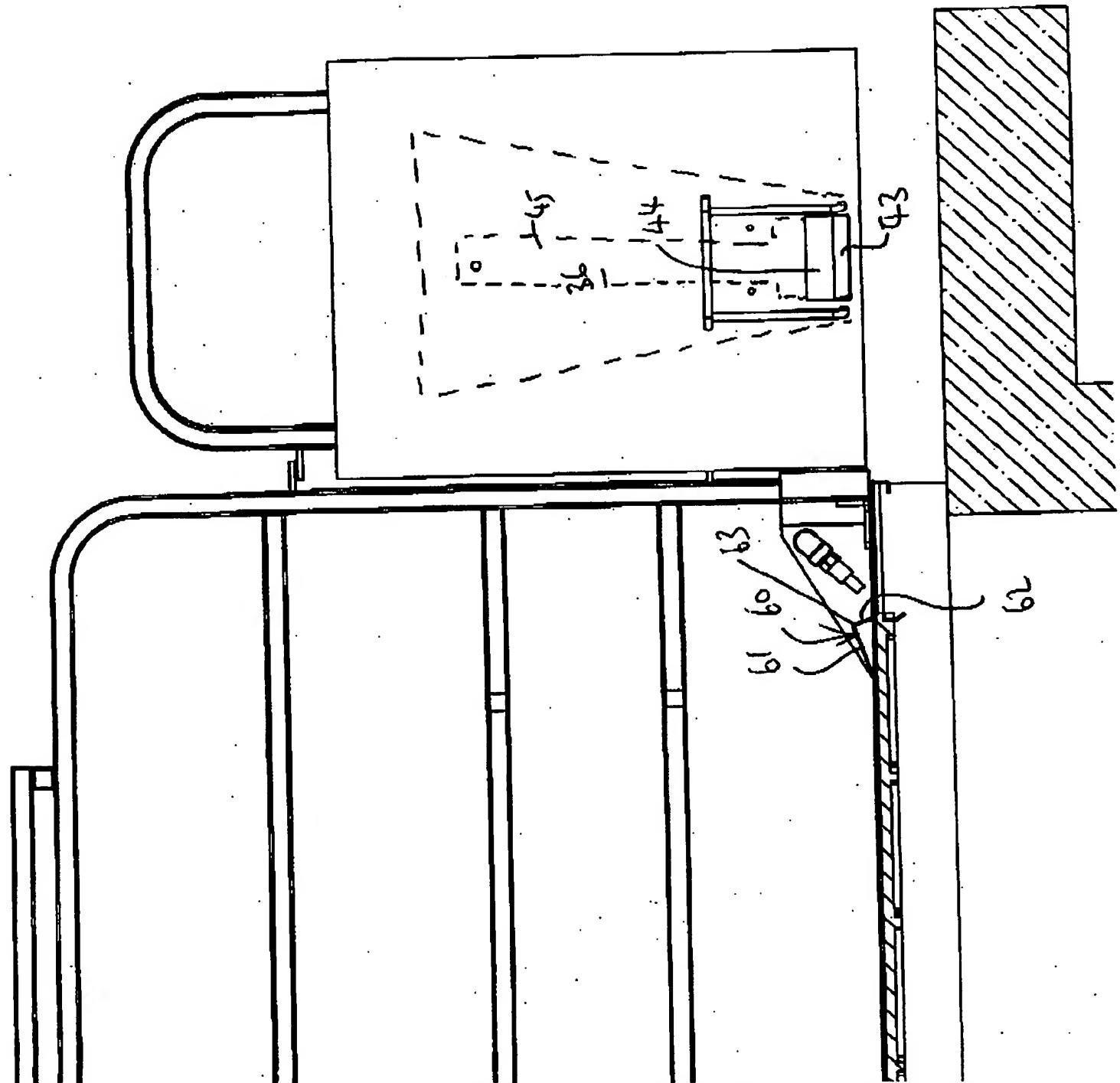


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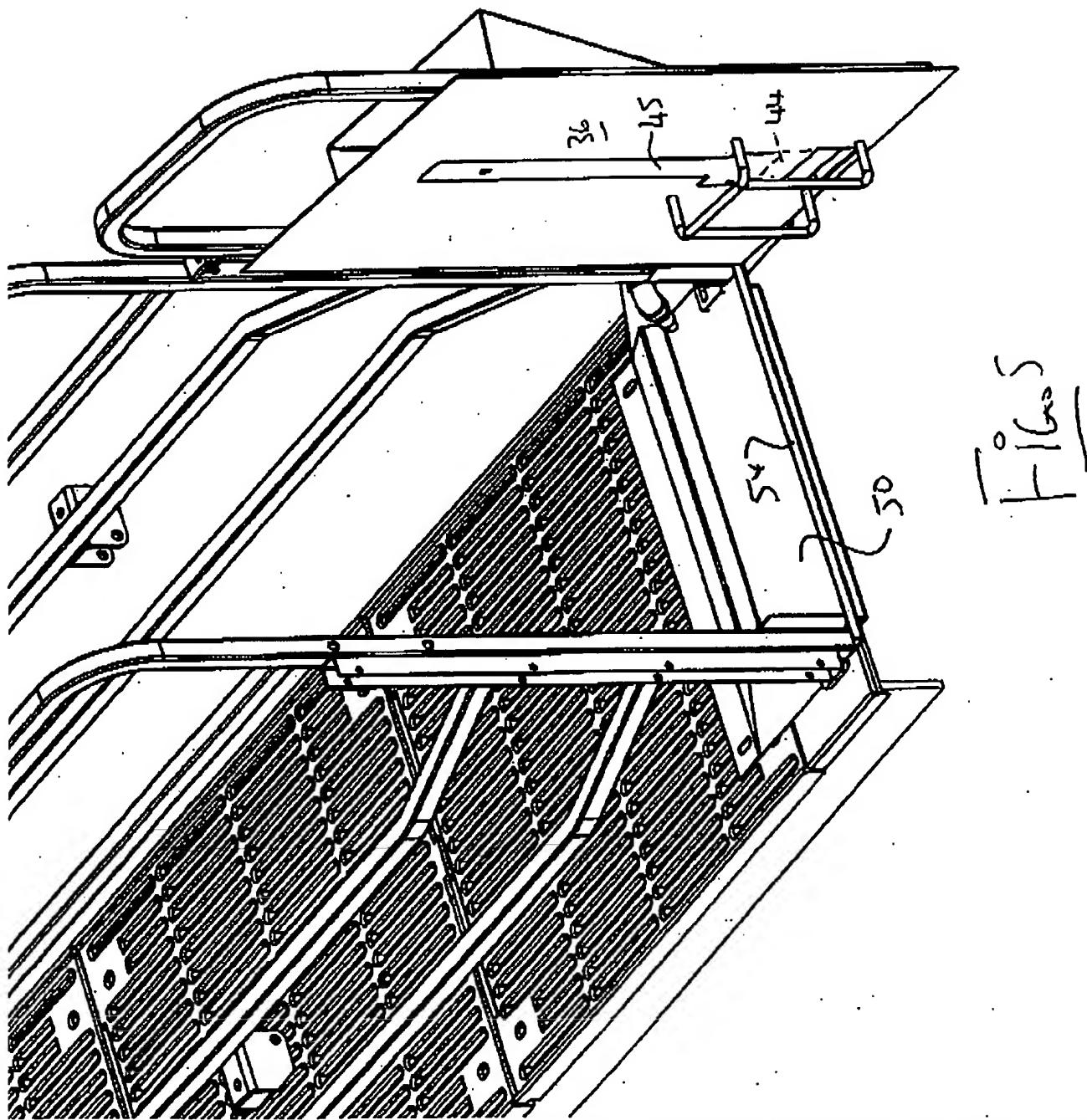


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Fig 4



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1 Fig. 6

